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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,553	07/13/2005	Rahul R. Ulap	CECO-91	3257
54620	7590	10/10/2007	EXAMINER	
KRIEG DEVAULT LLP ONE INDIANA SQUARE SUITE 2800 INDIANAPOLIS, IN 46204-2079			GONZALEZ, JULIO C	
			ART UNIT	PAPER NUMBER
			2834	
			MAIL DATE	DELIVERY MODE
			10/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,553	<b>Applicant(s)</b> UPLAP ET AL.	
	<b>Examiner</b> Julio C. Gonzalez	<b>Art Unit</b> 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I (claims 1-7) in the reply filed on 08/06/07 is acknowledged. The traversal is on the ground(s) that both independent claims, claim 1 & claim 13 disclose driving an electric generator with an engine, thus such search would not be a burden on the examiner. This is not found persuasive because such claims disclose different scope/limitations, thus rendering different inventions. For example, Group I discloses the temperature of the engine and Group III concentrates on determining a start-up operation of the engine, using a starter motor, fuel injectors, reducing the smoke output of the engine, etc.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atago et al (US 4,593,663) in view of Peterson, Jr. (US 3,960,130) and Kuroda et al (US 6,504,259).

Atago et al discloses providing an amount of fuel to a combustion engine taking into consideration the engine's temperature and speed (column 6, lines 37 – 48, 59 – 65) and also the acceleration is controlled based on temperature and speed (column 10, lines 32 – 44; column 12, lines 18 – 24).

However, Atago et al does not disclose taking into consideration controlling the engine at a target time.

On the other hand, Peterson discloses for the purpose of minimizing damage to engines that engine's acceleration can be controlled using the engine's temperature and speed (column 6, lines 3 – 13) and at a target time (column 4, lines 24 – 26 & notice graph in figure 1).

Kuroda et al is being cited for the purpose of improving drivability in vehicles that it is well known in the art to drive an electric generator 16 by an engine 10 (see figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to control an engine by using the temperature and speed and to control the engine based on a specific time for the purpose of minimizing

damage to engines as disclosed by Peterson and to teach that a generator can be driven by an engine for the purpose of improving drivability in vehicles as shown by Kuroda et al.

4. Claims 3, 5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atago et al, Peterson and Kuroda et al as applied to claim 1 above, and further in view of Fujimore et al (US 4,742,462).

The combined control system discloses all of the elements above. However, the combined control system does not disclose that acceleration can be calculated based on a certain speed and time.

On the other hand, Fujimore et al discloses for the purpose of controlling efficiently the operation of combustion engines that the acceleration of an engine can be calculated by taking into consideration a speed and time (see figures 10, 11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to disclosed the combined system and disclosed above and to control the engine acceleration by using a specific speed and time for the purpose of controlling efficiently the operation of combustion engines as disclosed by Fujimore et al.

***Allowable Subject Matter***

5. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is 571-272-2024. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Julio C. Gonzalez  
Primary Examiner  
Art Unit 2834

Jcg

October 4, 2007